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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/834,875	04/13/2001	Harold Norbert Heller	29565/KC15,490	5544

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EXAMINER

KIDWELL, MICHELE M

ART UNIT PAPER NUMBER

3761

DATE MAILED: 11/06/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/834,875

Applicant(s)

HELLER ET AL.

Examiner

Michele Kidwell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-33 and 38-52 is/are pending in the application.
- 4a) Of the above claim(s) 1-33 and 38-40 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 41-52 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_ :
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2,5,7-8. 6) ☐ Other: .

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## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election of Group II, claims 41 – 52 in Paper No. 6 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

### ***Claim Objections***

Claim 48 is objected to because of the following informalities: the applicant has claimed that the "between outer said..." in line 2 of the claim. The examiner presumes that there is a typographical error in the claim because the current claim does not make sense. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 41 – 52 are rejected under 35 U.S.C. 102(e) as being anticipated by Elsberg et al. (US 6,524,293).

With reference to claim 41, Elsberg et al. (hereinafter Elsberg) discloses a personal care absorbent article comprising a front portion including opposing first and second lateral side portions defining respective first and second lateral side edges (figure 7), and a central section defining a fastening area between the first and second lateral side portion (66), first and second fault lines (80) being disposed between the fastening area and the respective first and second lateral side portions (figure 7), a rear portion including an outer rear edge (72), a crotch portion extending between the front portion and the rear portion (figure 7) and first and second fasteners releasably secured to the fastening area (col. 18, lines 19 – 22) and non-releasably secured to the first and second lateral side portions of the front portion as set forth in col. 19, lines 26 – 29.

As to claim 42, Elsberg discloses a personal care article wherein the fault lines are cut lines having no front portion material extending across the fault lines as set forth in col. 19, lines 1 – 25.

With reference to claims 43 and 50 – 52, Elsberg discloses the fault lines as lines of perforations, which may be considered as a array of apertures, material crushed in a line pattern or material that is breakably attached, as set forth in col. 19, lines 1 – 15.

With respect to claim 44, Elsberg discloses the fasteners comprising hook-type fasteners engageable with loop material at the fastening area as set forth in col. 19, lines 35 – 42.

Regarding claim 45, Elsberg discloses the first and second fasteners providing at least partial support of integrity of the front portion across the fault lines as set forth in col. 18, lines 54 – 67.

With reference to claim 46, Elsberg discloses a fastening area that comprises a separate and distinct patch of fastening material affixed to an underlying web as set forth in col. 17, lines 12 – 15.

As to claim 47, Elsberg discloses a fastening area that is integral with a front surface of the central section of the front portion as set forth in col. 16, lines 64 – 67.

Regarding claim 48, Elsberg discloses a personal care article including floating portions of the fasteners between the lateral side portions and a central portion of the central section as set forth in figure 7.

The examiner contends that the area between the adhesive and the area sealed to lateral side portion (area designated by reference numeral “86”) is considered a floating portion because this is the only area of the fastener that is not secured to the article.

As to claim 49, see the rejection of claim 48. The floating portions shown in figure 7 can be considered to be disposed inwardly of the fault lines in the area just below the fault line and this area is also considered as being positioned inward toward a central portion of the front portion, and as noted in the rejection of claim 48, the area is unattached to the front portion because there is no bonding material disposed on that portion of the fastener.


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michele Kidwell whose telephone number is 703-305-2941. The examiner can normally be reached on Monday - Friday, 7:30am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on 703-308-1957. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3590 for regular communications and 703-305-3590 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

  
Michele Kidwell  
August 20, 2003

  
WEILUN LO  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700